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CIA RETIREMENT AND DISABILITY SYSTEM

- a. GENERAL. This regulation prescribes policies and rules governing the administration of the Central Intelligence Agency Retirement and Disability System, referred to hereafter as the System, authorized by the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, referred to hereafter as the Act. Only those employees who are designated as participants in accordance with the provisions of this regulation will be covered by the System.
- b. DEFINITIONS. As used in this regulation, the term
 - (1) "Agency" means the Central Intelligence Agency as established effective 18 September 1947 by the National Security Act of 1947;
 - (2) "Agency service" means creditable service performed as an employee of the Agency;
 - (3) "annuitants" means participants who are receiving annuities from the Fund and all persons, including surviving wives and husbands, widows, widowers, children, and beneficiaries of participants or annuitants who will become entitled to receive annuities in accordance with the provisions of this regulation;
 - (4) "career" means the predominant and long-range orientation of an employee's Agency service, past and present, as well as plans for his future development and use;
 - (5) "child," for the purpose of annuity benefits, means an unmarried child (including (a) an adopted child, and (b) a stepchild or recognized natural child who lives with the participant in a

regular parent-child relationship) under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support, or such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-second birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, will be deemed to have attained the age of twenty-two on the first day of July following such birthday. A child who is a student will not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Director of Personnel that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim;

- (6) "Director" means the Director of Central Intelligence;
- (7) "employee" means a civilian officer or employee of the Agency;
- (8) "Fund" means the Central Intelligence Agency Retirement and Disability Fund;

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- (9) "participant" means an employee who has been designated in accordance with the provisions of this regulation to be covered under the System.
- (10) "service credit" means federal civilian or military service which is creditable toward retirement under the System. Insofar as practicable, pertinent rulings of the Civil Service Commission under the Civil Service Retirement Act will be used as a guide to determinations regarding the creditability of any military service and of civilian service performed prior to designation as a participant;
- (11) "Qualifying Service" means performance of duty as an Agency employee:

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- (d) which, when retirement is imminent, is adjudged to have been so sensitive and/or so highly specialized because of the unique security requirements of the Agency as to militate against new employment for which he is otherwise qualified.

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- (12) "widow" or "widower" means the surviving spouse of a participant who was married to such participant for at least two years immediately preceding the participant's death or is the parent of issue by marriage to the participant;
- (13) "adverse determination" means any determination involving an action other than one for which an employee, participant, or annuitant has applied.

c. AUTHORITIES AND RESPONSIBILITIES

- (1) DIRECTOR OF PERSONNEL. The Director of Personnel will be responsible for the general administration of the System in accordance with the provisions of this regulation. There are hereby delegated to the Director of Personnel all authorities as are necessary for the administration of the System except those which are specifically reserved to the Director in this regulation.

(2) CIA RETIREMENT BOARD

- (a) The CIA Retirement Board will advise and advise the Director of Personnel in the administration of the System. Additional responsibilities of the Board in connection with administering Agency policies under the Civil Service Retirement System are stated in [REDACTED]. The Board is composed of senior officials in appropriate numbers from the several directorates recommended by the respective Deputy Directors. The Director appoints the chairman and members of the Board. Advisers from appropriate technical staffs are available to the Board.

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- (b) The Director of Personnel will normally obtain the advice of the Board before making determinations as to the eligibility of employees to participate in the System, before acting upon applications for disability or voluntary retirement, or before making recommendations to the Director for involuntary retirement. He may also refer to the Board any other matter pertaining to the administration of the System. In addition, he will obtain the advice and assistance of the Board in matters pertaining to the administration of the Civil Service Retirement System as prescribed in

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- (3) DEPUTY DIRECTORS AND HEADS OF CAREER SERVICE. The Director of Personnel will obtain the advice of the Deputy Director or the Head of the Career Service having career jurisdiction over the employee concerned before making determinations concerning the designation of an employee as a participant, before acting upon applications for disability or voluntary retirement, or before making recommendations for involuntary retirement or for disability retirement initiated by the Agency.
- (4) DIRECTOR OF FINANCE. The Director of Finance will be responsible for the administration of the Fund and is hereby delegated all authorities as are necessary for the administration of the Fund except those which are specifically reserved to the Director in this regulation.

d. DESIGNATION OF PARTICIPANTS

- (1) DESIGNATION. In order to qualify for designation as a participant, an employee must
- (a) be a United States citizen and at least twenty-five years of age but not have reached his sixtieth birthday;
 - (b) be serving on a career basis in a field which normally requires the performance of qualifying service as an integral part of a career in that field;
 - (c) have signed a written obligation to serve anywhere and at any time according to the needs of the Agency;
 - (d) have successfully completed one of the following:
 - (1) A minimum of five years of Agency service and at least eighteen months of qualifying service. An employee who has completed less than eighteen months of qualifying service may be designated a participant if he is then serving in an assignment, or is under official orders to serve in an assignment within ninety calendar days, which will satisfy the qualifying service requirement by the time the assignment is completed. An employee may not be designated a participant unless he has sufficient time prior to completion of 10 years of Agency service within which he could complete a minimum of 36 months of qualifying service.
 - (2) A minimum of ten years of Agency service and at least thirty-six months of qualifying service. An employee may be designated a participant if he is then serving in an assignment, or is under official orders to serve in an assignment within ninety calendar days, which will satisfy the qualifying service requirement by the time the assignment is completed. An employee may not be designated a participant unless he has sufficient time prior to completion of 15 years of Agency service within which he could complete a minimum of 60 months of qualifying service.
 - (3) A minimum of fifteen years of Agency service and at least sixty months of qualifying service.

(2) PERIODIC REVIEW AND REDETERMINATION OF DESIGNATION

- (a) The eligibility of an employee to remain a participant in the System will be reviewed at intervals to determine that he is meeting the criteria and that he is performing reasonable minimum periods of qualifying service. If such review shows that the employee no longer qualifies for coverage under the System, he will be transferred back to the Civil Service Retirement System.
- (b) The records of an employee designated as a participant will be reviewed at the conclusion of the participant's tenth year of Agency service to insure that he has thirty-six months of qualifying service. If it is determined that the requisite period of qualifying service has not been performed, the employee's designation as a participant will be rescinded unless he is then serving in an assignment, or is under official orders to serve on such an assignment within ninety calendar days, which will satisfy the qualifying service requirement by the time the assignment is completed.
- (c) The records of an employee designated as a participant will be reviewed prior to the conclusion of the participant's fifteenth year of Agency service. In no case will a participant with fewer than sixty months of qualifying service remain under the System after completing fifteen years of Agency service. Any participant who has completed fifteen

years of Agency service and is adjudged by the Director of Personnel to qualify for the System may elect to remain a participant for the duration of his Agency employment, and this election will not be subject to any review or approval.

- (d) A former participant may be considered for redesignation provided he meets all of the criteria set forth in subparagraph d(1).

e. NOTICE OF RECOMMENDATION OR DETERMINATION, RIGHT TO APPEAL, AND APPEAL PROCEDURE

(1) OPPORTUNITY TO BE HEARD BY RETIREMENT BOARD.

Prior to recommending to the Director of Personnel an "adverse determination" as defined at paragraph b.(13) or any other recommendation which adversely affects the entitlements of an employee, participant, or annuitant under the System, the CIA Retirement Board will notify the individual and invite him to submit within a specific period any additional pertinent information for the Board's consideration. An employee, participant or annuitant will have no fewer than ten, nor more than thirty calendar days after receipt of the Board's notice to submit this information. The Board may grant additional time depending on the circumstances of the case and the location of the individual. The employee may present this information orally or in writing at the discretion of the Board. Such information will be included in the report of the Board when

the Board submits its recommendation to the Director of Personnel.

- (2) NOTICE OF DETERMINATION OR RECOMMENDATION BY THE DIRECTOR OF PERSONNEL. If the Director of Personnel makes either a determination or a recommendation for a determination by the Director which adversely affects the entitlements of an employee, participant or annuitant under the System, he will notify the individual in writing and inform him that he may appeal the determination or recommendation to the Director as provided for below.
- (3) TIME PERIOD, FORM AND CONTENT OF APPEAL. An individual may make an appeal in writing to the Director by addressing it to him through the Director of Personnel. Such an appeal will be submitted by the individual within ten calendar days after receipt of the Director of Personnel's written notice. The Director of Personnel may grant additional time depending on the circumstances of the case and the location of the individual. An appeal must state the basis on which review is requested and supply pertinent information to support such review.
- (4) INVESTIGATION BY THE INSPECTOR GENERAL. The Inspector General will receive appeals made to the Director pursuant to this regulation and will make an independent investigation and recommendation to the Director. The Inspector General will not be limited in his investigation to matters raised by or contained in the appeal but will consider any information which he deems pertinent and appropriate.

- (5) NOTICE OF DECISION. When the Director has made a determination or has acted on an appeal which affects the rights or benefits of an employee, participant or annuitant under the System, he will advise the individual and the Director of Personnel in writing of his decision. All decisions made by the Director, authorized by the provisions of the Act, will be deemed to be final and conclusive and not subject to review by any court. The Director of Personnel will institute any action which may be required to implement the decision.
- (6) NOTICE OF EFFECTIVE DATE OF RETIREMENT. When the Director has approved the voluntary or involuntary retirement of a participant, the Director of Personnel will give the participant written notice of the determination. Except in the case of a disability retirement at the employee's request, such notice will normally be given at least thirty calendar days in advance of the date on which retirement will become effective. The Director of Personnel may, with the concurrence of the Deputy Director(s) concerned and the consent of the participant, extend for a period of 60 days the effective date. Any other extension in the effective date of mandatory retirement for age will require the approval of the Director.

f. RETIREMENT FOR DISABILITY OR INCAPACITY

- (1) ELIGIBILITY. A participant who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness or injury not due to vicious habits, intemperance or willful misconduct on his part shall be retired.

When the participant has made application, such retirement will require the approval of the Director of Personnel who will also determine whether the disability is permanent. When disability retirement action is initiated by the Director of Personnel on behalf of the participant, such retirement will be only upon order of the Director who will also determine whether the disability is permanent. In either of these cases, the findings and recommendations of the Board of Medical Examiners (see paragraph (4) below) will be considered.

(2) INITIATION OF RETIREMENT ACTION

- (a) By the Participant: Any participant who believes he may be eligible for retirement because of disability may apply in writing to the Director of Personnel for such retirement. The application must include a description of his disability and a full explanation of the manner in which it affects the performance of his duties. The applicant must provide a statement from his private physician regarding the disability.
- (b) By the Director of Personnel: In the event a participant appears to be totally disabled or incapacitated but fails or is unable to make application for disability retirement, the Director of Personnel will institute such action on his behalf. In such case, the Director of Personnel will obtain the advice of the Board of Medical Examiners, the Deputy Director or the Head of the Career Service having

career jurisdiction over the employee concerned, and the CIA Retirement Board before making a recommendation to the Director.

- (c) Time for Filing: Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be extended by the Director of Personnel for an employee who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed within one year from the date of restoration of the employee to competency or the appointment of a fiduciary, whichever is earlier.

- (3) SUPERVISOR'S STATEMENT. The supervisor responsible for preparing the Fitness Report of a participant who applies for disability retirement, or whose disability retirement is initiated by the Director of Personnel, will submit a statement describing the apparent nature of the participant's disability and explaining the manner in which it affects the performance of his official duties. The usual or required duties of the applicant should be outlined. On the basis of information available to him, the supervisor will also indicate whether, in his opinion, the participant appears to be totally disabled or incapacitated for useful and efficient service in his career field. He will also indicate whether the participant's disability or incapacity appears to be the result of his own vicious

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habits, intemperance or willful misconduct. If the supervisor desires, he may transmit this statement directly to the Director of Personnel in a sealed envelope marked with the participant's name and the words "Disability Retirement - Privileged - Private."

(4) MEDICAL EXAMINATION AND EVALUATION

(a) Board of Medical Examiners

- (1) A Board of Medical Examiners will be responsible for conducting medical examinations and for evaluating the medical status of participants for whom an application for disability retirement is under consideration and for annuitants who have been retired for non-permanent disability. The applicant for disability retirement may request to appear before the Board or the Board may require the applicant to appear before it.
- (2) The Director of Medical Services, or his designee, will serve as Chairman of the Board of Medical Examiners. The Director of Medical Services, or his designee, will nominate two other members (and alternates for each) to serve on the Board. Members and alternates must be qualified physicians or surgeons. At least one of these members and his alternate will not be in active government service.
- (3) The Chairman of the Board may designate qualified physicians or surgeons to conduct medical examinations of applicants for disability retirement or disability

annuitants and to submit reports of such examinations to the Board for its evaluation.

- (b) Conduct of Examinations. Each participant considered for disability retirement will be given a medical examination by the Board or by a qualified physician or surgeon designated by the Chairman of the Board.
- (c) Report of Medical Examination. Based on the results of the medical examination, the Chairman of the Board of Medical Examiners will make a written report to the Director of Personnel giving the Board's recommendation as to approval or disapproval of disability retirement of the participant. The Chairman of the Board of Medical Examiners will also furnish such other medical information as may be required by the Director of Personnel or by the CIA Retirement Board to act upon the application for disability retirement.
- (5) COMPUTATION OF ANNUITY. A participant retired on disability will receive an annuity computed in accordance with the provisions of this regulation. If he is under age sixty and has less than twenty years of service credit toward his retirement under the System at the time he is retired, his annuity will be computed on the assumption that he has had twenty years of creditable service, but the additional service credit that may accrue to a participant under this provision will in no case exceed the difference between his age at the time of retirement and age sixty.

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- (6) EFFECTIVE DATE OF DISABILITY RETIREMENT. The effective date of separation for disability retirement will be the date the disability retirement was approved or the date pay status terminated, whichever is later. The annuity will commence on the day after salary ceases and the participant meets the service and disability requirements.
- (7) PERIODIC REVIEW AND EVALUATION OF DISABILITY RETIREMENT STATUS
- (a) Unless his disability is permanent, each annuitant retired for disability or incapacity will be given an annual medical examination and his medical status evaluated by the Board until he reaches mandatory retirement age. The evaluation will include a finding as to whether the annuitant continues to be totally disabled or incapacitated for useful and efficient service, and whether the disability is permanent. This report will be submitted to the Director of Personnel who will determine whether the annuitant continues to be totally disabled or incapacitated for useful and efficient service.
- (b) Whenever an annuitant's disability is determined to be permanent, he will not again be given a medical examination unless the Director of Personnel, with the advice of the Board, determines an examination is warranted.
- (c) When a non-permanent disability annuitant fails to submit to a required examination, payment of his annuity will be

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suspended until continuance of the disability is established to the satisfaction of the Director of Personnel.

- (d) A disability annuitant will certify the amount of his income from wages and self-employment for a calendar year by 1 May of the next year. Certification may consist of a letter signed by the annuitant (or if incapacitated, by his legal representative) which states the amount of his income from wages and self-employment. The Director of Personnel may extend the date for filing the certification if he determines that the circumstances of the case warrant an extension. When a disability annuitant refuses or fails to certify to the Director of Personnel the amount of his income from wages and self-employment for any calendar year, payment of his annuity will be suspended until he does so certify. No certification will be required for any calendar year prior to 1972.

- (8) ALLOWABLE EXPENSES FOR MEDICAL EXAMINATION. Reasonable and necessary travel, subsistence, and related expenses and medical fees may be incurred in connection with required medical examinations and evaluations and will be paid from the Fund.

- (9) RECOVERY FROM DISABILITY

- (a) Termination of Annuity

- (1) If the Director of Personnel determines on advice of the Board that an annuitant has recovered to the extent that he can return to duty, payment of the annuity will

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continue until a date six months after the date of the examination showing recovery or until the date of reemployment by any Government agency, whichever is earlier.

- (2) The annuity of a disability annuitant whose age and service would not have subjected him to mandatory retirement will be terminated if he is restored to a comparable earning capacity. Restoration to "comparable earning capacity" will be achieved if for two successive calendar years the annuitant receives income from wages and self-employment of at least eighty per cent of the current rate of pay of the position occupied immediately before retirement. Terminations of annuities under this subparagraph will be effective upon expiration of one year from the end of the calendar year in which earning capacity is restored, or upon reemployment by the government, whichever is earlier. The provisions of this paragraph will apply to all individuals receiving a disability annuity on the date this regulation is approved and to all individuals who may be awarded a disability annuity after the date of approval of this regulation.

- (b) Reemployment: A recovered disability annuitant may apply for reemployment in the Agency within one year from the date of his recovery as determined by the Director of Personnel.

- (1) Upon application, the Director of Personnel may reinstate a recovered disability annuitant in the grade in which he was serving at time of retirement, or he may, by taking into consideration the annuitant's age, qualifications, experience and present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement.
- (2) If an annuitant is found to be recovered or restored to earning capacity and is not reemployed by the Government, he is considered, except for service credit purposes, as involuntarily separated from the service, as of the date his annuity was discontinued and his retirement rights are based on the law in effect on the date of discontinuance. He is entitled to involuntary retirement (paragraph j) or deferred annuity (paragraph i(1)(b)) as applicable in his particular case. He may also become eligible for reinstatement of his disability annuity under conditions outlined below in subparagraph 10.

- (10) REINSTATEMENT OF DISABILITY ANNUITY. If, based on a current medical examination, the Director of Personnel determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his discontinued disability

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annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director of Personnel's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than eighty per cent of the pay rate attaching to the position from which he retired, his discontinued disability annuity (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit.

(11) FEDERAL EMPLOYEES' COMPENSATION ACT BENEFITS

- (a) No participant will be entitled to receive an annuity under the Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.), referred to hereafter as the FECA, covering the same period of time. Neither this provision nor any provision of the FECA will be so construed as to deny the right of any participant to receive an annuity under the System by reason of his own services and to receive concurrently any payment under the FECA by reason of the death of any other person.

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(b) The right of a person entitled to an annuity under the System will not be affected because the person has received lump sum compensation under section 14 of the FECA, except that where the annuity is payable for the same disability for which the section 14 compensation has been paid, so much of the compensation that has been paid for any period beyond the date the annuity became effective, as determined by the Secretary of Labor, will be refunded to the Department of Labor, and paid into the Federal Employees' Compensation Fund. Before a participant can receive the annuity he will

- (1) refund to the Department of Labor the amount representing the payments for such extended period; or
- (2) authorize the deduction of such amount from his annuity, which will be transmitted to the Department of Labor for reimbursement to the Federal Employees' Compensation Fund. Deductions from an annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor will determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

g. DEATH IN SERVICE

- (1) DISPOSITION OF CONTRIBUTIONS WHEN NO ANNUITY IS PAYABLE. If a participant dies and no claim for annuity is payable under the System, his contributions to the Fund with interest at the rate prescribed in subparagraph m(1)(d) will be paid in accordance with the provision for refund of contributions in order of precedence prescribed in subparagraph m(2).
- (2) BENEFIT TO SURVIVING WIDOW OR WIDOWER. If a participant dies before separation or retirement from the Agency and is survived by a widow or widower, such widow or widower will be entitled to an annuity equal to fifty-five per cent of the annuity computed in accordance with the provisions of subparagraph o(1)(a). The computation of the participant's annuity under this section will be at least the smaller of (a) forty per centum of the participant's average basic salary, or (b) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between his age at the time of death and age sixty. The annuity of the widow or widower will commence on the day following death of the participant and will terminate upon death or upon remarriage prior to attaining age sixty of the widow or widower.
- (3) BENEFIT TO SURVIVING CHILD OR CHILDREN. If a participant dies before retirement or separation from the Agency and is survived by a child or children, each surviving child will be entitled to an annuity computed in accordance with the applicable

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provisions of subparagraph o(3), depending upon whether the participant was also survived by a wife or husband.

- h. VOLUNTARY RETIREMENT. Any participant who is at least fifty years of age and has twenty years of service credit may on his own application and with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of this regulation provided he has not less than ten years of Agency service of which at least sixty months will have been qualifying service.
- (1) SUBMISSION OF REQUEST. Any participant wishing to retire under this provision will submit his request to the Director of Personnel not less than six calendar months prior to his desired retirement date.
- (2) EFFECTIVE DATE. The effective date of the voluntary retirement of a participant for the purpose of computing his annuity rate will be the date of his separation from the Agency. His annuity will commence on the day after separation.
- i. DEFERRED ANNUITY.
- (1) ELECTION OF REFUND OF CONTRIBUTIONS OR DEFERRED ANNUITY. Any participant who separates from the Agency may upon separation or at any time prior to becoming eligible for annuity elect either
- (a) to have his contributions to the Fund returned to him in accordance with the provisions of this regulation; or

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(b) to leave his contributions in the Fund and receive a deferred annuity, computed in accordance with the provisions of this regulation, commencing at the age of sixty-two years. This option is not available to a participant whose separation is determined by the Director to be based in whole or in part on the ground of disloyalty to the United States.

(2) DEATH PRIOR TO RECEIPT OF DEFERRED ANNUITY. If a participant who has elected to receive a deferred annuity dies before reaching age sixty-two, his contributions to the Fund, with interest, will be paid to his beneficiary as prescribed in subparagraph m(2).

j. INVOLUNTARY RETIREMENT.

(1) The Director may, at his discretion, place in a retired status any participant who has completed at least twenty-five years of service credit or who is at least age fifty and has completed at least twenty years of service credit provided such participant has not less than ten years of Agency service of which at least sixty months will have been qualifying service. Such participant will receive retirement benefits in accordance with the provisions of this regulation.

(2) The recommendation to retire a participant under the provisions of this paragraph will originate with the Head of his Career Service who will provide a full statement of the reasons for

such recommendation. However, in appropriate cases the Director of Personnel will originate such recommendation.

- (3) No provision of this regulation will impair the authority of the Director to terminate the employment of any participant pursuant to the authority contained in section 102(c) of the National Security Act of 1947, as amended.

k. MANDATORY RETIREMENT FOR AGE

- (1) All participants will be automatically separated from the Agency upon reaching the age of sixty. Such separation will become effective during the pay period in which the participant reaches age sixty. If the Director determines it to be in the public interest, he may extend the service of a participant in GS grades 17 and below for a period not to exceed five years and participants in GS grade 18 for a period not to exceed ten years.
- (2) Any request for an extension will be in accordance with the procedures set forth [REDACTED]

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1. Not used.

m. CONTRIBUTIONS TO THE FUND

(1) COMPULSORY CONTRIBUTIONS

- (a) Amount of Contribution: Seven per cent of the basic salary received by each participant will be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal sum will also be contributed from the respective appropriation or fund which

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is used for payment of the participant's salary. The amounts deducted and withheld from basic salary together with the amount contributed from the appropriation or fund will be deposited by the Director of Finance to the credit of the Fund. Each participant is deemed to consent and agree to such deductions from his basic salary.

- (b) Periods of Leave Without Pay and Military Service: Contributions will not be made for any periods of leave without pay, for periods of leave of absence during which participant is performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or for periods of such service prior to becoming a participant.
- (c) Refund of Compulsory Contributions: A refund of compulsory contributions is payable under the following circumstances:
- (1) When a participant is separated from the Agency without becoming eligible for an immediate annuity or if eligible for a deferred annuity at age sixty-two he elects before reaching this age to have the refund in lieu of such annuity.
 - (2) When a retired participant's total compulsory contributions, including any special contributions or deposits made to obtain credit for prior service, with interest, exceed the total of annuities paid to him or to an annuitant claiming through him, the excess

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will be paid in the order of precedence shown in subparagraph m(2) below upon establishment of a valid claim therefor, and such payment will be a bar to recovery by any other person.

- (d) Interest on Refund of Compulsory Contributions: Interest on compulsory contributions refunded in accordance with the provisions of this regulation will be computed at four per cent per annum to 31 December 1947 and three per cent per annum thereafter to 31 December 1956. Such interest will be compounded annually and proportionately for the period served during the year of separation. No interest is payable after 31 December 1956.

(2) DESIGNATION OF BENEFICIARY FOR LUMP-SUM PAYMENT

- (a) A designation of beneficiary is only for purposes of lump-sum payment of refunds. If a participant elects to designate a beneficiary, he will make such designation in writing to the Director of Personnel. The designation of a beneficiary does not affect the right of any person who qualifies to receive survivor annuity benefits which are payable under the System.
- (b) It is not necessary for a participant or former participant to designate a beneficiary unless he wishes to establish a different order of precedence for payment than that established below.

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- (c) If there is no designated beneficiary living, any lump-sum benefit which becomes payable after the death of a participant or a former participant will be payable in the following order of precedence:
- (1) To the surviving wife or husband of the participant.
 - (2) If there is no surviving wife or husband, to the child or children of the participant and descendants of such deceased children by representation, but not to include stepchildren.
 - (3) If none of the above, to the parents of such participant or the survivor of them.
 - (4) If none of the above, to the duly appointed executor or administrator of the estate of such participant.
 - (5) If none of the above, to other next of kin of such participant as may be determined by the Director of Personnel to be legally entitled thereto. However, no payment will be made in such case until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

n. PERIOD OF SERVICE FOR ANNUITIES

- (1) SERVICE AS A PARTICIPANT. The period of service of a participant will be computed from the date he is designated a participant in the System. However, all periods of separation from the Agency and any leaves of absence without pay exceeding six months in the aggregate in any calendar year will be excluded,

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except leaves of absence while receiving benefits under the FECA and leaves of absence granted participants while performing active and honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

(2) PRIOR SERVICE CREDIT

(a) General. A participant may, subject to the provisions of this subparagraph, include in his period of service credit

(1) civilian service in the executive, judicial, legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, prior to the date of the separation upon which title to annuity is based.

(b) Credit for Prior Civilian Service

(1) Purchase of Service Credit: A participant may obtain prior civilian service credit in accordance with subparagraph n(2)(a)(1) by making a special contribution to the Fund equal to the percentage of his basic annual salary for each year of service for which credit is sought specified with respect to such year in the table relating to employees contained in section 4(c) of the Civil Service Retirement Act (as shown below), together with interest computed

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as provided in section 4(c) of such Act, as described below.

Contribution Required for Purchase of Prior Service Credit

<u>Percentage of Basic Salary</u>	<u>Service Period</u>
2 1/2	August 1, 1920 to June 30, 1926
3 1/2	July 1, 1926 to June 30, 1942
5	July 1, 1942 to June 30, 1948
6	July 1, 1948 to October 31, 1956
6 1/2	November 1, 1956 to December 31, 1969
7	From January 1, 1970

(Interest on such contributions shall be computed from the midpoint of each service period included in the computation to the date of deposit or commencing date of annuity, whichever is earlier. The interest shall be computed at the rate of four per cent per annum to 31 December 1947 and three percent per annum thereafter, compounded annually. No interest shall be charged for any period of separation from the service which began before 1 October 1956.)

A participant may elect to purchase all or any part of his prior civilian service. However, if he elects to purchase only a portion of such prior service, he will be required to purchase first the most recent service immediately preceding his becoming a participant. A participant may make the contributions required to obtain credit for prior civilian service by a lump-sum payment or, under such conditions

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as may be determined in each instance by the Director of Finance, by installments or payroll allotments of not less than twenty-five dollars or multiples thereof. Such installments or allotments will be applied first to the latest service prior to his becoming a participant. For the purpose of survivor annuity, special contributions authorized may also be made by the survivor of a participant.

(2) Transfer of Contributions:

- (a) If an officer or employee under some other Government retirement system becomes a participant in the System by direct transfer, the Government's contributions (including interest accrued thereon computed at the rate of three per centum a year compounded annually) under such retirement system on behalf of the officer or employee will be transferred to the Fund and such officer or employee's total contributions and deposit (including interest accrued thereon), except voluntary contributions, will be transferred to his credit in the Fund effective as of the date such officer or employee becomes a participant in the System. Each such officer or employee will be deemed to consent to the transfer of such funds and

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such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the System.

- (b) If a participant in the System becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed at the rate of three per centum a year compounded annually) to the Fund on his behalf will be transferred to the fund of the other system and his total contributions and deposit, including interest accrued thereon, except voluntary contributions, will be transferred to his credit in the fund of such other retirement system effective as of the date he becomes eligible to participate in such other retirement system. Each such officer or employee will be deemed to consent to the transfer of such funds and such transfer will be a complete discharge and acquittance of all claims and demands against the Fund on account of service rendered prior to his becoming eligible for participation in such other system.

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- (3) Limitation on Contributions and Refund of Contributions for Period of Service Covered by Transfer of Contributions: No participant whose contributions are transferred to the Fund in accordance with the provisions of this regulation will be required to make contributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor will any refund be made to such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by section 4(c) of the Civil Service Retirement Act, as shown above, for contributions to the Fund.
- (4) Service Credit for Periods Covered by Refund of Contributions from Other Government Retirement Fund: No participant, whose contributions are transferred to the Fund in accordance with the provisions of subparagraph n(2)(b)(3), will receive credit for periods of service for which a refund of contributions has been made. A participant may, however, obtain credit for such prior service by making a special contribution to the Fund in accordance with the provisions of subparagraph n(2)(b)(1) for the purchase of prior service credit.

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- (5) Exclusion of Credit for Service Which is Basis of Annuity Under Another Government Retirement System: No participant may obtain prior civilian service credit toward retirement under the System for any period of civilian service for which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.
- (c) Credit for Military or Naval Service
- (1) General: A participant may obtain prior military or naval service credit as provided in this regulation by applying to the Director of Personnel prior to retirement or separation from the Agency. In the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based will not be included except when
- (i) such retired pay is on account of service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used Chapter 11 of Title 38, United States Code), or (ii) such retired pay is based on retirement from a reserve component of the Armed Forces with twenty years of service at

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age sixty as provided in Chapter 67 of Title 10 of the United States Code. No contributions to the Fund will be required in connection with military or naval service credited to a participant in accordance with this provision.

- (2) Exclusion of Military or Naval Service Establishing Eligibility for Social Security Benefit: Notwithstanding any other provision of this regulation, any military service (other than military service covered by military leave with pay) performed by a participant after 21 December 1956 will be excluded in determining the aggregate period of service upon which an annuity payable under the System to such participant, widow, widower or child is to be based, if such participant, widow, widower or child is entitled (or would upon proper application be entitled) at the time of such determination, to monthly old-age or survivor's benefits under section 202 of the Social Security Act, as amended, based on such participant's wages and self-employment income. If in the case of the participant, widow, or widower such military service is not excluded under the preceding sentence, but upon attaining age sixty-two, he or she become entitled (or would upon proper application be entitled) to such benefits, the aggregate

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period of service upon which such annuity is based will be redetermined, effective as of the first day of the month in which he or she attains such age, so as to exclude such service.

- (3) Credit for Service While on Military Leave: A participant who during the period of any war or of any national emergency, as proclaimed by the President or declared by the Congress, leaves his position to enter the military service will not be considered, for the purposes of this regulation, as separated from his Agency position by reason of such military service, unless he will apply for and receive a refund of contributions under this regulation. Such participant will not be considered as retaining his Agency position beyond 31 December 1956 or the expiration of five years of military service, whichever is later. Contributions will not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

o. COMPUTATION OF ANNUITIES

(1) BASIC FORMULA

- (a) The annuity of a participant will be equal to two per cent of his average basic salary for the highest three

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consecutive years of service, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of this regulation. In determining the aggregate period of service upon which the annuity is to be based, a fractional part of a month will not be counted.

- (b) The "high-three salary" means the average basic salary of a participant for his highest three consecutive years of service. The high-three salary is the highest salary obtainable by averaging the rate of basic salary in effect during any three consecutive years of service, with each rate weighed by the time it was in effect including odd days.
- (c) In computing an annuity under this section, the service credit of a participant who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the seventy per cent limitation imposed by paragraph (a) above, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average basic salary or annuity eligibility.
- (d) The annuity computed under this section is reduced by ten per cent of a special contribution remaining unpaid for civilian service for which retirement deductions have not been made, unless the participant elects to eliminate

the service involved for the purpose of annuity computation. No credit will be allowed for periods of service for which a refund of contributions has been made unless such credit has been purchased by making a special contribution to the Fund in accordance with the provisions of subparagraph n(2)(b)(1) for the purchase of prior service credit.

- (e) Except as otherwise provided, the annuity of a participant will commence on the day after separation from the service, or on the day after salary ceases and the participant meets the service and the age or disability requirements. The annuity of a participant under paragraph i, Deferred Annuity Benefits, will commence on the day after the occurrence of the event on which payment is based. An annuity otherwise payable from the Fund allowed on or after date of enactment (31 December 1970) of this provision will commence on the day after the occurrence of the event on which payment is based. An annuity payable from the Fund on or after date of enactment (31 December 1970) of this provision will terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs.

(2) REDUCED ANNUITY WITH BENEFIT TO SURVIVING WIFE OR HUSBAND

- (a) At the time of retirement, any married participant may elect to receive a reduced annuity in order to provide for an annuity payable to his wife or her husband, beginning on the date following the participant's death and terminating upon the death or upon remarriage prior to attaining age sixty of the surviving spouse. The annuity payable to the surviving spouse will be fifty-five per cent of the amount of the participant's annuity as may be specified as the base for the survivor benefits.
- (b) A participant eligible to receive a deferred annuity at age sixty-two may also elect this type of annuity.
- (c) A participant may not change his election under this provision, except that a retired participant subsequently recalled under the System may make a new election at the time of his retirement following reemployment.

(3) SURVIVOR ANNUITY TO CHILD OR CHILDREN

- (a) When There Is Surviving Spouse: If an annuitant retired under the System dies, in addition to the annuity which may be paid to the surviving spouse, each surviving child will receive an annuity equal to the smallest of
- (1) sixty per cent of the annuitant's high-three salary divided by the number of children;
 - (2) *a flat dollar rate; or,
 - (3) when there are four or more surviving children, an

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amount three times that of the flat dollar rate
divided by the number of children.

(b) When There Is No Surviving Spouse: If an annuitant retired under the System dies and is not survived by a spouse but by a child or children, each child will be paid an annuity equal to the smallest of the following:

- (1) Seventy-five per cent of the annuitant's high-three salary divided by the number of children;
- (2) *a flat dollar rate; or,
- (3) when there are four or more surviving children, an amount three times that of the flat dollar rate divided by the number of children.

*Flat dollar rates are subject to automatic cost-of-living increases and constantly fluctuate; the Retirement Affairs Division should be contacted for information concerning current rates.

(c) Recomputation of Annuity: If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children will be recomputed and paid as though such spouse or child had not survived the participant.

(d) Beginning and Ending Dates of Annuity: The commencing date of an annuity payable to a child under this provision will be deemed to be the day after the annuitant

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or participant dies, with payment beginning on that day or beginning or resuming on the first day of the month in which the child later becomes or again becomes a student provided the lump-sum credit, if paid, is returned to the Fund. Such annuity will terminate on the last day of the month before (1) the child's attaining age eighteen unless then a student or incapable of self-support, (2) the child's becoming capable of self-support after attaining age eighteen unless then a student, (3) the child's attaining age twenty-two if then a student and not incapable of self-support, (4) the child's ceasing to be a student after attaining age eighteen unless then incapable of self-support, (5) the child's marriage, or (6) the child's death, whichever first occurs.

(4) SURVIVOR ANNUITY TO DESIGNATED BENEFICIARY OF AN UNMARRIED PARTICIPANT

An unmarried participant determined to be in good health at the time of retirement may elect a reduced annuity and designate a beneficiary to receive an annuity after his death.

- (a) Designation of Beneficiary: The beneficiary must be designated in writing to the Director of Personnel and must be a person having an insurable interest (as that term is used in section 9(h) of the Civil Service Retirement Act) in the participant.

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- (b) Determination of Participant's Health: The determination that the participant is in good health will be made by the Director of Personnel on advice of the Director of Medical Services following appropriate medical examination.
- (c) Reduction of Participant's Annuity: The annuity payable to the participant making this election will be reduced by ten per cent of his annuity computed in accordance with the provisions of this regulation and by five per cent of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction will not exceed forty per cent.
- (d) Annuity to Beneficiary: The annuity of a survivor designated under this provision will be fifty-five per cent of the reduced annuity payable to the participant. The annuity payable to a beneficiary under this provision will begin on the day after the participant dies. Upon the death of the surviving beneficiary all payments will cease on the last day of the month before death and no further annuity payments authorized under this provision will be due or payable.
- (5) OFFENSES BARRING ANNUITY PAYMENTS. The payment of annuity to a participant or to his survivor is barred if such participant is convicted of certain Federal offenses or commits certain actions as provided in 5 U.S.C. 2281 (et seq). The payment

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of an annuity is similarly barred under the provisions of 5 U.S.C. 2283(c) if such participant remains outside the United States for more than one year to avoid prosecution.

(6) COST-OF-LIVING ADJUSTMENT OF ANNUITIES

(a) Basis of Adjustment: On the basis of determinations made by the Director pertaining to per centum change in the Price Index, the following adjustments in annuities will be made:

- (1) Each month, dating from November 1966, the Director will determine the per centum change in the Price Index.
- (2) Effective the first day of the third month which begins after the Price Index change will have equaled a rise of at least three per centum for three consecutive months over the Price Index for the base month, each annuity payable from the Fund which has a commencing date not later than such effective date will be increased by one per centum plus the per centum rise in the Price Index (calculated on the highest level of the Price Index during the three consecutive months) adjusted to the nearest one-tenth of one per centum.

(b) Price Index. The term "price index" means the Consumer Price Index (all items -- United States city average)

published monthly by the Bureau of Labor Statistics.

The term "base month" means the month of October 1966 for the first increase under section 291(a)(2) of the Act and thereafter the month for which the Price Index showed a per centum rise forming the basis for a cost-of-living annuity increase.

(c) Adjustment in Monthly Installment of Annuity: The monthly installment of annuity after adjustment under this provision will be fixed at the nearest dollar.

p. RECALL OF RETIRED PARTICIPANT. The Director may recall a retired participant to duty in the Agency whenever he determines such recall is in the public interest and the participant consents to the recall. A participant recalled, reinstated or reappointed in accordance with the provisions of subparagraph f(9)(b), will be entitled to the full salary of the grade in which he is serving. During the service of a recalled, reinstated or reappointed participant, he will make contributions to the Fund in accordance with the provisions of this regulation, and when he reverts to his retired status, his annuity will be redetermined in accordance with the provisions of this regulation.

q. REEMPLOYMENT OF RETIRED PARTICIPANT

(1) GENERAL. A participant retired under the System will not be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed will serve at the will of the appointing officer.

(2) REEMPLOYMENT COMPENSATION

- (a) Any annuitant who has retired under the System and who is reemployed in Federal Government service in any appointive position either on a part-time or full-time basis will be entitled to receive his annuity payable under the System, but there will be deducted from his salary a sum equal to the annuity allocable to the period of actual employment.
- (b) In the event of any overpayment under this provision, such overpayment will be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, including his annuity, payable in accordance with the provisions of the Act.

r. MONEYS

- (1) ESTIMATE OF APPROPRIATIONS NEEDED. The Director of Finance will prepare the estimates of the annual appropriations required to be made to the Fund and will cause to be made actuarial valuations of the Fund at intervals of five years, or more often if deemed necessary by him.
- (2) INVESTMENT OF MONEYS IN THE FUND. The Director may, with the approval of the Secretary of the Treasury, invest in interest-bearing securities of the United States such portions of the Fund as in his judgment may not be immediately required for payment of annuities, cash benefits, refunds, and allowances,

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and the income derived from such investments will constitute a part of the Fund.

- (3) ATTACHMENT OF MONEYS. None of the moneys mentioned in this regulation will be assignable either in law or equity, or be subject to execution, levy attachment, garnishment, or other legal process except indebtedness to the U. S. Government.

s. LIMITATION ON NUMBER OF RETIREMENTS

- (1) NUMERICAL LIMITATION. The number of participants retiring on an annuity for any reason except disability will not exceed a total of twenty-one hundred during the period beginning on 1 July 1969 and ending on 30 June 1974, and a total of fifteen hundred for the period 1 July 1974 to 30 June 1979.
- (2) APPLICATION OF LIMITATION TO DEFERRED ANNUITIES. In the case of a participant separated from the Agency after performing five years of Agency service who is eligible for and elects to receive a deferred annuity, such participant will be regarded as "retiring" within the meaning of this paragraph when he attains age sixty-two and begins to receive annuity payments.
- (3) CONTROL. The Director of Personnel will be responsible for controlling the number of retirements under the System to ensure that the numerical limitation is not exceeded.

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t. NOTICE OF MANDATORY RETIREMENT DATE

- (1) Five years before a participant's mandatory retirement date under the Act, the Office of Personnel will inform the participant in writing of the various retirement benefits and services available to him. The names of all such participants will be provided to the appropriate Deputy Directors or Heads of Independent Offices.
- (2) Two years before a participant's mandatory retirement date under the Act the Office of Personnel will remind the participant in writing of the available retirement counselling program.
- (3) The above two written notices are in addition to the requirements outlined in HR 20-44d that a Deputy Director, Head of Career Service, or Head of Independent Office ensure that supervisors discuss retirement plans with employees two years before the projected retirement date and annually thereafter.

DISTRIBUTION: AB